

AMENDED IN ASSEMBLY APRIL 20, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2251**

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**Introduced by Assembly Member Evans**

February 22, 2006

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An act to add Chapter 3.25 (commencing with Section 6218) to Division 7 of Title 1 of the Government Code, relating to reproductive health care services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2251, as amended, Evans. Reproductive health care services: confidentiality of personal information.

**Existing**

(1) *Existing* law, to be repealed on January 1, 2008, establishes the Address Confidentiality for Reproductive Health Care Services Providers, Employees, Volunteers, and Patients program to protect the confidentiality of home address information of reproductive health care services providers, employees, volunteers, and patients. The program authorizes specified persons to complete an application to be filed with the Secretary of State for the purpose of enabling state and local agencies to respond to requests for public records without disclosing a program participant's residence address contained in any public record. Under existing law, any person who makes a false statement in an application is guilty of a misdemeanor.

This bill would prohibit any person, business, or association from knowingly publicly posting or displaying on the Internet the home address, home telephone number, or image of any provider, employee, volunteer, or patient of a reproductive health services facility or of persons residing at the same home address of those persons with the

intent to ~~cause bodily harm~~ *incite a third person to cause imminent great bodily harm to the person identified in the posting or display, or to a coresident of that person, where the third person is likely to commit this harm, or to threaten the person identified in the posting or display, or a coresident of that person, in a manner that places the person identified or the coresident in objectively reasonable fear for his or her personal safety.* This bill would make a violation of these provisions a misdemeanor, with such a violation that leads to great bodily harm being a felony. By creating a new crime, the bill would impose a state-mandated local program. *The bill would establish a cause of action for damages and declaratory relief for these violations.*

~~The~~

(2) *This bill would, in addition, prohibit the public posting or displaying on the Internet of ~~that information~~ a home address or home telephone number after a written demand and would permit injunctive and declaratory relief in such a case. The bill would prohibit the Internet sale or trade of this information with the intent to ~~cause bodily harm~~ specified in paragraph (1) above, and would authorize recovery of money damages for violations.*

~~The~~

(3) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Chapter 3.25 (commencing with Section 6218)
- 2 is added to Division 7 of Title 1 of the Government Code, to
- 3 read:

1 CHAPTER 3.25. ONLINE PRIVACY FOR REPRODUCTIVE  
2 HEALTH SERVICES PROVIDERS, EMPLOYEES, VOLUNTEERS, AND  
3 PATIENTS  
4

5 6218. (a) (1) No person, business, or association shall  
6 knowingly publicly post or publicly display on the Internet the  
7 home address, home telephone number, or image of any  
8 provider, employee, volunteer, or patient of a reproductive health  
9 services facility or other individuals residing at the same home  
10 address with the intent to ~~cause bodily harm~~. *do either of the*  
11 *following:*

12 (A) *Incite a third person to cause imminent great bodily harm*  
13 *to the person identified in the posting or display, or to a*  
14 *coresident of that person, where the third person is likely to*  
15 *commit this harm.*

16 (B) *Threaten the person identified in the posting or display, or*  
17 *a coresident of that person, in a manner that places the person*  
18 *identified or the coresident in objectively reasonable fear for his*  
19 *or her personal safety.*

20 (2) Subject to paragraph (3), a violation of this subdivision is  
21 punishable as a misdemeanor.

22 (3) A violation of this subdivision that leads to great bodily  
23 injury is punishable as a felony.

24 (4) *Notwithstanding any other provision of law, a provider,*  
25 *employee, volunteer, or patient of a reproductive health services*  
26 *facility whose home address, home telephone number, or image*  
27 *is made public as a result of a violation of paragraph (1) may do*  
28 *either or both of the following:*

29 (A) *Bring an action seeking injunctive or declarative relief in*  
30 *any court of competent jurisdiction. If a jury or court finds that a*  
31 *violation has occurred, it may grant injunctive or declarative*  
32 *relief and shall award the successful plaintiff court costs and*  
33 *reasonable attorney's fees.*

34 (B) *Bring an action for money damages in any court of*  
35 *competent jurisdiction. In addition to any other legal rights or*  
36 *remedies, if a jury or court finds that a violation has occurred, it*  
37 *shall award damages to that individual in an amount up to a*  
38 *maximum of three times the actual damages, but in no case less*  
39 *than four thousand dollars (\$4,000).*

(b) (1) No person, business, or association shall publicly post or publicly display on the Internet the home address; *or* home telephone number; ~~or image~~ of any provider, employee, volunteer, or patient of a reproductive health services facility if that individual has made a written demand of that person, business, or association to not disclose his or her home address; *or* home telephone number; ~~or image~~. *number. A demand made under this paragraph shall include a sworn statement declaring that the person is subject to the protection of this section and describing a reasonable fear for the safety of that individual or of any person residing at the individual's home address, based on a violation of subdivision (a).* A written demand made under this paragraph shall be effective for four years, regardless of whether or not the individual's affiliation with a reproductive health services facility has expired prior to the end of the four-year period.

(2) A provider, employee, volunteer, or patient of a reproductive health services facility whose home address; *or* home telephone number; ~~or image~~ is made public as a result of a ~~violation of failure to honor a demand made pursuant to~~ paragraph (1) may bring an action seeking injunctive or declarative relief in any court of competent jurisdiction. If a jury or court finds that a violation has occurred, it may grant injunctive or declarative relief and shall award the successful plaintiff court costs and reasonable attorney's fees.

(3) *This subdivision shall not apply to a person or entity defined in Section 1070 of the Evidence Code.*

(c) (1) No person, business, or association shall solicit, sell, or trade on the Internet the home address, home telephone number, or image of a provider, employee, volunteer, or patient of a reproductive health services facility with the intent to ~~cause bodily harm to the individual or to any person residing at the same home address.~~ *do either of the following:*

(A) *Incite a third person to cause imminent great bodily harm to the person identified in the posting or display, or to a coresident of that person, where the third person is likely to commit this harm.*

(B) *Threaten the person identified in the posting or display, or a coresident of that person, in a manner that places the person*

1 *identified or the coresident in objectively reasonable fear for his*  
2 *or her personal safety.*

3 (2) Notwithstanding any other provision of law, a provider,  
4 employee, volunteer, or patient of a reproductive health services  
5 facility whose home address, home telephone number, or image  
6 is solicited, sold, or traded in violation of paragraph (1) may  
7 bring an action in any court of competent jurisdiction.—~~If In~~  
8 *addition to any other legal rights and remedies, if* a jury or court  
9 finds that a violation has occurred, it shall award damages to that  
10 individual in an amount up to a maximum of three times the  
11 actual damages, but in no case less than four thousand dollars  
12 (\$4,000).

13 (d) An interactive computer service or access software  
14 provider, as defined in Section 230(f) of Title 47 of the United  
15 States Code, shall not be liable under this section unless the  
16 service or provider intends to abet or cause bodily harm that is  
17 likely to occur or threatens to cause bodily harm to a provider,  
18 employee, volunteer, or patient of a reproductive health services  
19 facility or any person residing at the same home address.

20 (e) Nothing in this section is intended to preclude punishment  
21 under any other provision of law.

22 6218.05. For purposes of this chapter, the following terms  
23 have the following meanings:

24 ~~(a) “Address” means a residential street address, school~~  
25 ~~address, or work address of an individual, as specified on the~~  
26 ~~individual’s application to be a program participant under this~~  
27 ~~chapter.~~

28 ~~(b)~~

29 (a) “Reproductive health care services” means health care  
30 services relating to the termination of a pregnancy in a  
31 reproductive health care services facility.

32 ~~(c)~~

33 (b) “Reproductive health care services provider, employee,  
34 volunteer, or patient” means a person who obtains, provides, or  
35 assists, at the request of another person, in obtaining or providing  
36 reproductive health care services, or a person who owns or  
37 operates a reproductive health care services facility.

38 ~~(d)~~

39 (c) “Reproductive health care services facility” includes a  
40 hospital, an office operated by a licensed physician and surgeon,

1 a licensed clinic or a clinic exempt from licensure, or other  
2 licensed health care facility that provides reproductive health  
3 care services and includes only the building or structure in which  
4 the reproductive health care services are actually provided.

5 ~~(e)~~

6 *(d)* “Publicly post” or “publicly display” means to  
7 intentionally communicate or otherwise make available to the  
8 general public.

9 ~~(f)~~

10 *(e)* “Image” includes, but is not limited to, any photograph,  
11 video footage, sketch, or computer-generated image that provides  
12 a means to visually identify the person depicted.

13 SEC. 2. No reimbursement is required by this act pursuant to  
14 Section 6 of Article XIII B of the California Constitution because  
15 the only costs that may be incurred by a local agency or school  
16 district will be incurred because this act creates a new crime or  
17 infraction, eliminates a crime or infraction, or changes the  
18 penalty for a crime or infraction, within the meaning of Section  
19 17556 of the Government Code, or changes the definition of a  
20 crime within the meaning of Section 6 of Article XIII B of the  
21 California Constitution.